

S.B.CIVIL WRIT PETITION NO.925/2007

SBBJ, Jaipur & Anr.
V.
State of Rajasthan & Ors.

Date of Order :: 20th August, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Manish Patel for Mr. M.S.Singhvi, for the
petitioners.

Mr. B.L.Tiwari, Deputy Government Advocate.

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By this petition for writ a mandamus is sought by the petitioner bank to direct the respondent State to refund the amount of Rs.8,46,481.50 said to be illegally recovered by treating the premises of the Staff Training Centre to be a commercial building.

In brief, facts of the case are that the petitioner bank is having a Training Centre at plots No.9 and 10, Sector No.6/7, Jainarain Vyas Colony, Bikaner. The Assistant Director, Land and Building Tax, Bikaner after determining valuation of the building and land referred above, made an assessment of land and building tax and demanded a sum of Rs.8,46,481.50. An appeal preferred by the petitioner bank against the demand so raised also came to be rejected by the Director, Land and Building Tax, Government of Rajasthan, Jaipur under an order dated 20.2.1997. A revision petition then preferred before the Divisional Commissioner, Bikaner came to be accepted by holding that the building of the training

centre is not a commercial one. The Director as well as the Assistant Director, Land and Building Tax being aggrieved by the order passed by the Divisional Commissioner preferred a writ petition before this Court that came to be rejected on 16.12.2003. An appeal preferred before Division Bench of this Court assailing validity, propriety and correctness of the judgment passed by learned Single Bench on 16.12.2003 also came to be rejected by judgment dated 16.2.2006. The Division Bench of this Court while rejecting the appeal preferred by the State Government held that the Land and Building in question is not used for commercial purpose and is not a commercial property. Before proceeding further, it is pertinent to note that the respondent bank satisfied the demand made by the Assistant Director under the order dated 20.2.1997. The grievance of the petitioner is that the amount aforesaid has yet not been refunded to the petitioner by the respondent State despite declaration of demand illegal.

No reply to the writ petition has been filed by the respondents despite service.

With the consent of parties and looking to the short question involved in this petition for writ, the same was heard for final disposal at admission stage.

The respondents have not disputed the fact that the demand made by the Land and Building Tax Department was not found valid by the Divisional Commissioner, Bikaner and the order passed by him was maintained by this Court while rejecting the writ petition preferred by the State Government and also the appeal so preferred giving challenge to the judgment given by learned Single Judge. Once the demand made by the respondents has been declared illegal by the Divisional Commissioner and his order being affirmed by this Court, there is no just reason available for not refunding the amount already levied from the petitioner against the land and building tax. The petitioner is certainly entitled to get the money back in view of the fact that the land and building tax was erroneously charged by the respondents by treating the building and training centre as a commercial building. In totality of the facts of the case, this petition for writ deserves acceptance.

Accordingly, the writ petition is allowed. The respondent State is directed to refund the sum of Rs.8,46,481.50 to the petitioner on or before 1st October, 2007 with interest @ 5.5% per annum.

No order to costs.

(GOVIND MATHUR), J.

Kkm/ps.